

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
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)	
Initial Filing Window for Two-Way)	Public Notice
Multipoint Distribution Service)	DA 00-666
And Instructional Television)	
Fixed Service)	Released March 23, 2000
)	
)	

**PETITION REQUESTING REVISION OF
INITIAL FILING WINDOW FOR TWO-WAY
MULTIPOINT DISTRIBUTION AND
INSTRUCTIONAL TELEVISION FIXED SERVICE**

The Association of Federal Communications Consulting Engineers (AFCCE), which recently celebrated its 50-year anniversary, is an organization that includes approximately 90 full members who are Registered Professional Engineers engaged in the practice of consulting engineering before the Federal Communications Commission. Many of the Association's members provide engineering services to clients who are licensees in the two-way multipoint distribution and instructional fixed services.

Background

The subject Public Notice announcing the initial filing window for two-way multipoint distribution service and instructional fixed service was released on March 23, 2000. In this notice, the Commission set the dates of the initial filing window to open on Monday, July 3, 2000, and remain open through Monday, July 10, 2000. Subsequently, on April 27, 2000, the Commission released an amended □Methodology for Predicting Interference from

Response Station Transmitters and to Response Station Hubs and for Supplying Data on Response Station Systems.□ Also in April 2000 the Commission issued a new form, Form 331, for use in filing two-way applications.

Concerns

Events which were not anticipated when the Commission was preparing the subject notice have had a significant negative impact on the ability of Association members and other engineers to prepare complete and compliant applications. The difficulties described below make it unlikely that licensees and permittees in the affected services can prepare high-quality applications within the remaining time. Applications prepared without adequate analysis and review will likely be subject to Petitions to Deny which might be avoided given the necessary time and resources for proper preparation. Petitions to Deny caused by hasty application preparation unnecessarily increase the workload at the Commission, result in delays in delivering service to the public, and may result in the inability of some facilities to provide services now or in the future due to the significant advantage of filing in the first filing window.

Relevant Technical Issues

In order to prepare complete and acceptable two-way system applications for submission within the initial filing window, the licensee's engineer must have access to software which is capable of meeting the complex requirements for interference analyses which are set forth in Appendix D of the *Report and Order on Reconsideration in MM*

Docket No. 97-217 and RM-9060 and, in addition, have access to an accurate database of incumbent facilities. To the Association's knowledge, only two companies have developed and recently released software packages intended to perform the complex interference analyses defined in the above cited Appendix D. CelPlan Wireless Global Technologies released its software module CelFCC on April 15, 2000, and EDX Engineering, Inc. released its MMDS FCC study module on May 15, 2000.

The software incorporates revisions to comply with the amended interference study requirements released in April 2000. The nature of the amendments is such that work files used with software prior to the incorporation of the amendments can not be used to prepare amended studies. Complete new studies are required.

Because of the software's complexity, each company recommends a significant training period for an engineer to become proficient in its use. CelPlan, for example, recommends an initial two to five day series of formal classes, followed in a few weeks by another two to three days of classes. EDX also recommends at least two days of training classes initially, followed by additional training later, if necessary.

Many members of the Association have purchased these packages to enable them to prepare two-way system applications for their clients. It is not clear, however, that either software package is, as of yet, fully functional. Some concern has been expressed by those who have access to both software packages that interference analyses results do not agree. Until these software uncertainties have been resolved and an acceptable level of confidence has been achieved, it will be difficult to certify compliant applications which fully protect incumbent facilities.

Both software packages are continuing to change rapidly. As of this date (June 6th) the last EDX update was released on June 1st. The last CelPlan update was released on June 2nd.

The application procedure requires that each applicant prepare a data file providing relevant parameters for an interference study. After the initial filing window, there will be a period for those applicants whose filings are timely, and only for those applicants with timely filings, to modify their applications to eliminate mutual exclusivity and to reduce potential interference through modifications of their applications. While both software packages produce files which purport to comply with the requirement to produce files, neither package can read files produced by the other. Both software vendors are actively addressing the issue. At present it is impossible to directly import a study from one software package into the other package.

Members have expressed concerns regarding the lack of a complete database. Some licensees have expended and are expending significant resources in the FCC public reference room in an attempt to verify the inclusion of all authorized and applied for facilities within the required distance of the licensee's authorized facility. After the filing window was announced, the FCC decided to close the public reference room on Fridays. The Commission provided query access to its ITFS and MDS/MMDS database through the Internet on 31 May 2000. The query system is new and untested, and a review by Association members has found errors and omissions in the database. The database is a significant achievement. However, it has only become available within six weeks of the closing of the filing window. The MMDS listing available on the Internet is dated August

1999. There is a downloadable database for ITFS listed in zipped form, however there is no guide provided to facilitate reading or otherwise using that database.

Some Members of the Association have designed complex two-way systems, to operate within the licensee's 35 mile protected service area, using up to seven separate Response Service Areas, each containing a response hub and co-located booster station. The required Appendix D interference analysis of the potential for interference from such a proposed system toward other incumbent stations, using the fastest software on a fast computer, can take from one-half day to several days of computer run time to complete. The process typically requires many iterations of design and analyze, and re-design and re-analyze, to achieve an acceptable system design that also affords full protection to all relevant incumbent facilities. The design process and required interference analyses are further complicated by the fact that multiple overlapping protected service areas of co-channel and adjacent channel incumbent licensees exist in most major markets. The heavily encumbered ITFS and MDS/MMDS spectrum will require extensive studies in most areas of the country.

The Association's members, who have clients wishing to participate in the initial filing window, are working to meet the expectations of their clients. However, based on the complexity of the design process, the stringent protection criteria and immense complexity of the interference analyses required, the uncertainty regarding acceptable performance of the only recently available software, the amount of time required to prepare the design, interference analyses and multiple applications per licensee, the lack of a complete, accurate and readily available database for the MMDS and ITFS services and the still

pending information not yet available from the Commission, it has become abundantly clear that there is not nearly enough time available to allow for the preparation of complete and acceptable applications for all licensees who intend to submit two-way system applications during the initial filing window.

Interference studies are also necessary to support the negotiation of no-objection agreements with adjacent market facilities. Most adjacent market licensees expect a study in compliance with current FCC Rules to determine the potential impact of other facilities on their facilities. The initial petition by the wireless industry and the subsequent Rulemaking by the FCC promoted cooperation between operators as a key factor in the success of the new regulations. The same factors as noted above have hampered effective negotiations for cooperation.

Conclusion

The public interest is best served by allowing time for Association members and other engineers to prepare compliant applications, allowing all licensees and permittees who diligently pursue applications time to complete those applications for the initial window, and conserving Commission resources by reducing the number of rushed, defective applications and subsequent Petitions to Deny. The slippage in the release of the amended Appendix D requirements, the uncertainty in the availability of compliant software, the difficulties with the Commission's database, and the slippage in the release of the actual application form all demonstrate significant reasons for an extension.

AFCCE believes that the current dates established by the Public Notice for the initial filing window do not allow sufficient time for all interested licensees to prepare and file acceptable applications for two-way service. Further, failure to file such applications during the initial filing window may preclude many licensees from ever being able to establish a viable two-way service. For these reasons, and based upon information provided by Association members who have gained experience in this endeavor, their estimates regarding design, analysis and preparation times and the number of licensees seeking to obtain these services to file applications within the initial filing window, AFCCE urgently requests that the Commission revise the dates associated with the initial filing window for two-way applications to provide at least an additional 130 days to enable preparation of acceptable applications for all licensees who intend to submit them.

Respectfully Submitted,

Joseph M. Davis
President
June 6, 2000